

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Frank Fournier for Ernie's Towing, c/o Peter MacConnell, attorney

**Date application filed with the Town Clerk:** October 19, 2007

**Nature of request:** A Special Permit to operate a small parking lot for temporary, short-term storage of towed vehicles, pursuant to Section 3.384 of the Zoning Bylaw.

**Address:** 24 and 40 Montague Road (Map 5A, Parcels 39 and 37, B-VC Zoning District)

**Property owners:** Joseph Sacco, 24 Montague Road  
Calvin and Anne Potter, 40 Montague Road

**Legal notice:** Published on October 24 and 31, 2007 in the Daily Hampshire Gazette and sent to abutters on October 23, 2007

**Board members:** Barbara Ford, Russell Frank and Jane Ashby

**Submissions:** The petitioner submitted the following documents:

- A Mission Statement and Management Plan for Ernie's Towing;
- A list of municipalities, road service clubs, dealerships, garages and colleges that use Ernie's Towing;
- A picture of the proposed chain link fence;
- Three sets of site plans for the proposed parking lot, each with partial information;
- A final site plan showing the location of the fence, sidewalks, exterior lighting, drains, etc;
- Specific Findings of Section 10.38 of the Zoning Bylaw, as prepared by Attorney Peter MacConnell on behalf of the applicant;
- A sample lease for the owners of the two properties involved.

Other submissions included:

- Previous Special Permits associated with the two properties involved in the application – ZBA FY94-18, to operate a repair shop for motor vehicles at 24 Montague Road; ZBA FY80-29, to rent vehicles at a non-conforming repair and sales garage at 40 Montague Road; and ZBA FY97-0049, to operate a carpentry/woodworking shop at 38/40 Montague Road;
- A memo from the zoning assistant, dated November 3, 2007, outlining some of the zoning and dimensional regulations;
- An Order of Conditions for the cleanup of contaminated soil at 40 Montague Road, dated March 13, 2006;
- A letter from David Keenan on behalf of Amherst Towing, asking that the hearing be re-opened, received November 9, 2007.

**Site Visit:** November 6, 2007

The Board met with the petitioner, Paul Guertin, manager of Ernie's Towing in Amherst, Cal Potter, owner of 40 Montague Road, and Lisa Halbert from Attorney Peter MacConnell's office. The following was observed:

- The two adjacent lots devoted to vehicle repair or storage, parts of which are proposed for the parking lot;
- The Mill River along the northern property boundary of 40 Montague Road;
- One building on 24 Montague Road and two buildings at 40 Montague Road;
- The building at 40 Montague Road that is proposed for the parking lot office and storage of the tow trucks and some vehicles;
- Four curb cuts at 24 Montague Road and two at 40 Montague Road;
- Paved and unpaved areas of both properties that are proposed for the parking lot;
- The location of the proposed fence and entrances for the parking lot;
- The location of the exterior lighting;
- The surrounding B-VC District, that includes a library, church, small shopping center, and an old school building used by the Survival Center and the Head Start program.

**Public Hearing:** November 8, 2007

Attorney Peter MacConnell spoke to the petition at the hearing. Also present were John Fournier, owner of Ernie's Towing, Ernie's employees Brian Fournier and Paul Guertin, Andrew Potter, associated with North Amherst Motors, 40 Montague Road and Joe Sacco, owner of the vehicle repair business at 24 Montague Road.

Mr. MacConnell gave the following statements:

- The applicant wishes to have a place to park towed cars in Amherst;
- Section 3.384 of the Zoning Bylaw allows for a commercial parking lot via a Special Permit;
- The land that the applicant would like to use straddles two properties – the northern part of Joe Sacco's lot and the southern portion of Cal Potter's lot;
- Both properties are located in a Business-Village Center Zoning District;
- Currently Mr. Sacco has an auto repair business on his property, and Mr. Potter has a vehicle storage, repair and leasing business on his property;
- Historically, 40 Montague Road (Potter property) has been used as a vehicle repair and storage business since the 1940's; it was known as "Ashley's Garage" before Mr. Potter bought the property and continued the business;
- Mr. Sacco started a full service gas station on his property in 1970, and now concentrates on just vehicle repair;
- Section 3.01 of the Bylaw does allow for more than one Principal Use on a lot only when the Principal Uses "are clearly complementary to each other";
- The applicant feels that the proposed parking area is complementary to the existing uses on the two lots, since the uses all have to do with automotive services and therefore could be allowed;
- 95% of Ernie's Towing is related to illegally parked cars in Amherst;
- The police contact Ernie's and arrange for the impoundment;
- Auto clubs such as AAA use Ernie's for disabled cars, either to fix the auto on site or to tow to a repair garage;
- The applicant estimates that approximately 15 cars per day will be towed to the site;
- In snowstorms, the number may be many more; the lot holds 60 vehicles;
- When a car is impounded, most owners retrieve their car within 12 hours; very few do not collect after a day or two;

- The office of the parking lot will not be staffed all the time; a phone call from the police will bring both the staff person and the customer to the lot to collect his/her car;
- For safety reasons, the lot will be enclosed with a chain-link fence;
- There will be two light poles to illuminate the lot, again for safety reasons;
- One pole already exists, and the other will be at the edge of the second building on Potter's lot;
- The second pole will have two 150-watt bulbs, motion-activated;
- The part of the lots that are not paved will be covered with pervious gravel;
- The entrance gate for the parking lot will be between the two buildings on Potter's lot; the existing fence in that location will be replaced;
- The gate shown on one of the site plans on the Sacco property will not be built; perhaps a gate will be requested on Potter's property near the office/storage building if needed in the future;
- The fence surrounding the proposed parking lot will be placed ten 10 feet in from the property boundaries on both the Potter and Sacco lots;
- The applicant would like an eight (8) foot fence, again for safety reasons;
- The tow trucks will be stored within the office building.

Reasons for granting the permit, Findings required for all Special Permits, Section 10.38 of the Zoning Bylaw, were submitted by the applicant and his lawyer.

Ms. Ford asked if there were plans for landscaping around the fence. Mr. MacConnell said there were none at this time. Mr. Sacco said that he had tried to have plantings on his property, but that the State's snow plows threw so much salt on them that they always died.

Mr. MacConnell said that, in his opinion, the fence will not detract, and may improve the appearance of the site. Part of Potter's existing rusted fence will be removed for the new fence. The fence is important because the towing company is legally responsible for the cars that are towed and they have to be kept safe, he said.

Ms. Ashby asked if the gate locations are different in the second plan from the original site plan. Mr. MacConnell replied that the plan is now to eliminate the gate from the south on Mr. Sacco's land, and only come in from Sunderland Road onto Mr. Potter's land. Also, the fence on Mr. Sacco's land is now 10 feet further to the north so that two of the curbs on Mr. Sacco's property will remain open. Mr. Sacco can use more of his building as well with the fence moved to the north by 10 feet.

Ms. Ashby asked about lighting. The petitioner said that they are planning to install two lights on a pole on the south-east corner of Potter's second building. The pole might be 25-35 feet tall they said. Also, there is an approved existing light on a street pole that is 20-30 feet from ground level. The petitioner plans to put the new lights on a motion sensor.

The applicant described the towing process. Ernie's is on call 24 hours a day, 7 days a week. The person whose vehicle is towed must call the Police Department, who has the list of all towed vehicles. The police will call the tow company involved, and by law, the company must respond within a set amount of time. The tow company will meet the person at the parking lot so that the person can pay the fine and retrieve his/her vehicle. During the daytime, Ernie's Towing employees are out on the road. They will have 4-5 employees maximum in Amherst. At night, there are two employees on call.

There are 60 spaces designated for the proposed lot. Although not marked on the pavement, the space is tight and all the vehicles must be parked in an orderly fashion in order to move the vehicles on and off the site.

The sign for the Amherst lot has not been developed. The applicant would like to submit the sign at a later time for approval at a public meeting. The applicant said that it would be a simple window sign saying "Ernie's Towing" and a telephone number.

In terms of cleaning and weed control of the site, the applicant said that they walk the fence at the other Ernie's locations several times per week to keep the site litter and weed free.

Ms. Ashby said that she is concerned about the visual impact of the fence and cars on the businesses across Montague Road. Since plants cannot survive in the ground, she suggested planting ornamental grasses in tubs filled with soil. The grasses will cover an 8-10 foot width. In the fall the grasses turn brown but stay erect all winter. In the spring, they are cut down, but grow back very quickly.

Mr. MacConnell responded that no one would say that a parking lot is the prettiest use in the world, but it will be an improvement over what is there now. Three big tubs of grass along Montague Road will work, he said, and should further shield the lot without detracting from keeping the vehicles safe. Screening is most important on the easterly side of the lot, he said. It doesn't make sense to screen on the south side because of Mr. Sacco's building and the vehicles that will be parked there for Sacco's repair business.

Ms. Ashby asked about the fence, whether it would be open or have plastic slats? The applicant responded that they want the chain link fence to be open, again for safety reasons.

Ms. Ford asked if Mr. Sacco minded the fence essentially cutting off two of the curb cuts on his property. Mr. Sacco said not at all, it will make life easier for him. It may stop the cars from cutting across his property at high speeds. He has tried to park his trucks by the two northerly curb cuts to discourage cutting across his property, but it hasn't been successful, and there have been high speed accidents on his property. With the proposed fence, then all would have to use the two curb cuts on the lower half of his property, which is less open. The North Amherst Library staff and patrons also use his property to park.

Ms. Ashby asked about the vintage light fixtures at the site. Ms. MacConnell said that they are operational and belong to Mr. Sacco.

Ms. Ford noted that the Board would need to decide about allowing two principal uses on one site. Mr. MacConnell said that he could not think of anything more complementary than a towing business co-locating with two vehicle repair businesses, one a body shop and the other an automotive repair business.

Mr. Frank asked about the leases for the two property rentals that will take place. Mr. MacConnell said that Ernie's will lease property from Mr. Sacco, and it will be a lease dealing with an exclusive use of Sacco's property. Mr. Potter will lease the inside of the fenced area and will share the building with Ernie's, so it will be a more complicated lease. Neither lease is drawn up yet, but Mr. MacConnell will submit them to the Board for the record.

Ms. Ford noted that both Potter and Ernie's will use the same gate on Sunderland Road, and Potter would use the Montague entrance to the building as well. The entrances of three bays of the building are on the south side of the building and inside the gated area. The fourth bay entrance is outside the gate and along Montague Road. The interior of the building would have the office area for Ernie's and a large open area that would be shared by Potter and Ernie's.

Ms. Ford wondered whether there would be security issues with such a shared setup. Mr. Fournier said that impounded vehicles will be parked outside in the lot, except for rare or leaking vehicles, which will be stored

inside. Security in the office is not an issue because all records and fees will go to the Easthampton office immediately.

The duration of the cars staying at the Amherst lot will be very short, Mr. Fournier said. If a vehicle is left for more than a few days, it will be towed to Ernie's lot in Northampton. Within 72 hours, a vehicle must be inspected for insurance purposes if it is not drivable.

Ms. Weeks, Building Commissioner, asked if the proposed fence will be more than 30 inches from the sidewalk. The applicant responded that the sidewalk is located on the Town right-of-way and that the fence will be located 10 feet in from the property boundary.

One member of the public spoke to the application. David Keenan, 28 Shays Street, said that he is representing John Jernigan of Amherst Towing Inc, located just north of Potter's property on Sunderland Road. He said that Mr. Jernigan had been in the towing business for over 40 years. He feels that the plan submitted will be ineffective and will not work for college-aged students, who are the primary customers in Amherst. Mr. Keenan said that the submitted plan does not show the boundaries of the property, the setbacks, the drains, the office, what will happen to vehicles that are leaking, etc. Mr. Jernigan had had to go through a very difficult process to obtain his Special Permit, Mr. Keenan said, with requirements for oil separators in the drains, for example. He added that manning an office is difficult; this is not an absentee business. Mr. Keenan questioned whether it is legal to tow from one lot to another as well. This plan leaves a lot of unanswered questions, he said, and is open to problems. The towing business in Amherst is different than elsewhere. Mr. Jernigan tows for UMass, but the business has declined there since the policies are more lenient at the University now.

Mr. MacConnell said that he'd like to rebut some of the complaints that Mr. Keenan has. Mr. Fournier has been in the towing business since 1976, he said. Secondly, Ernie's Towing is different than Amherst Towing because they do not have a junk yard, and do not deal with junk cars. Third, the proposed lot will be for temporary parking, not permanent storage. Also, the police will guide the customer as to where the towed car is located, whether it's in Amherst or Northampton.

Ms. Ford asked about drainage on the two lots. The petitioner showed the catch basins on both properties on the site plan. Mr. Fournier said that he was a member of the Conservation Commission in Northampton for 10 years and is very careful about fluid leakage. Most fluids are lost at the site of an accident or break-down he said. At the parking lot, mats are used to absorb any leaking fluids.

Mr. Guertin brought two examples of the mats that Ernie's Towing uses to absorb fluids, one for oils and one for water-based fluids. They work very well, he said.

Ms. Ashby asked where the paved and unpaved areas are located for the proposed parking lot. Mr. Guertin showed the Board the areas on the site plan. He said that the paving would remain unless it was in really bad shape. In that case, it would be ripped up and replaced with a permeable material, the same as for the unpaved areas.

Ms. Ford stated that the petitioner will need to re-submit a better site plan. The Board agreed that a blown-up GIS map of the site would be acceptable. It must contain the location and type of the fence, the entrance gates, the gravel and paved areas, the lighting, the sidewalks, the catch basins, and landscaping on the easterly side along Montague Road. The Board also would like a sample of the lease for the two properties.

Mr. Frank noted that, with the Mill River at the northern border of Mr. Potter's property, a Request for

Determination with the Conservation Commission will be needed. The proposed parking area is within 200 feet of the river. Mr. MacConnell said that the applicant will file with the Conservation Commission if the ZBA approves their application.

Mr. Frank asked about whether one could see the chain link fence and see through it from all sides of the properties. Mr. MacConnell responded that the fence won't look any better if it was opaque rather than open. The aesthetics of seeing cars versus a solid fence is one issue. But more important is that visibility of the cars is necessary for safety reasons. Police must be able to see into the parking area as well.

Mr. Fournier said that his towing company has locations in Hartford, Milford and Northampton, and has not had problems with safety. He invited the Board to visit the Northampton site.

Mr. Keenan said that he and Mr. Jernigan were concerned that the Board does not have enough information on the drainage and liability issues. He asked that the Board require the same level of specificity as they did with Mr. Jernigan.

There was discussion concerning whether to close the hearing or leave it open in case there was more information to be gathered. Ms. Ford and Ms. Ashby said that the hearing could be closed. Mr. Frank agreed and said that he was sufficiently informed about the case so that he could make a decision.

Ms. Ashby made a motion to close the evidentiary portion of the hearing. Mr. Frank seconded the motion and the vote was unanimous to close the hearing.

**Public Meeting:** November 14, 2007

Attorney Peter MacConnell, owner John Fournier and Amherst manager Paul Guertin were present at the public meeting. Mr. MacConnell addressed the items that the Board had requested at the hearing. He presented the following:

- Copies of the GIS map of the two properties with all the information requested - location of the fence, the entrance gate, the gravel and paved areas, the lighting, the sidewalks, the catch basins, and landscaping along Montague and Sunderland Roads;
- A picture of the type of fence – a regular chain link fence, 8 feet tall;
- A sample lease for one of the two properties;
- The light fixture itself that will be used to illuminate the parking area;
- Pictures of the Japanese ornamental grass that will screen the fence.

Mr. Guertin said that tall, puffy grasses are difficult to obtain at this time of year. He talked to Berkshire Design, who uses them, and visited the Hadley Garden Center. The owner of the Hadley Garden Center said that the applicant can obtain the grasses in the spring, that they are very hardy, and that 3 tubs of grass on Montague Road and 4 tubs on Sunderland Road should provide adequate screening.

The Board asked about how it would be determined exactly where the fence will be placed. Mr. Guertin assured the Board that the property boundaries would be found with a survey if necessary in order to place the fence 10 feet inside the property line. L & L Fencing of Whately will survey and install the fence.

Ms Ford stated that one of the conditions of the permit could be that a signed registered survey of the properties must be submitted to the Building Commissioner prior to issuance of a building permit for the fence.

Ms. Ford noted that the light will be placed on a pole next to the second building on the Potter property. She asked if there was any way to shield the light spill. The petitioner responded that the light is not high wattage and will only cover the parking area. The other light along Montague Road is rented from the power company.

Ms. Ashby asked if the leases to rent the properties will be one year leases, with one year renewals. Mr. MacConnell responded that this will be the agreement, with the option to renew on a yearly basis as long as needed. Mr. Frank reviewed the lease arrangements again, saying that the submitted lease with Mr. Sacco is much easier to write, and that the complicated one with Mr. Potter still needs to be submitted to the Board.

Ms. Ford asked about the width and depth of the parking places, noting that the parking area looks tight. Mr. Guertin responded that all will be 9' x 18' spaces; none will be smaller for compact cars.

Ms. Ford asked that if three barrels are not enough to screen the fence along Montague Road, will the petitioner add more. Her concern is the location of the proposed lot, she said. The properties are in the heart of a Village Center, with the library next door, a shopping center across the street and traffic regularly passing by. The parking lot should be made more attractive to the passer-by. Mr. Guertin responded that they would add more grass barrels as needed.

Ms. Ford asked the other members of the panel if they were willing to accept the submitted plan that is not 100% to scale. The other members stated that the submitted plan was adequate.

Mr. Guertin stated that one of the more important drains is located inside Mr. Potter's building. Mr. Potter has an oil separator installed in that drain in order to catch any fluids from a vehicle. The drain is also connected to the sewer line, which goes to the waste water treatment plant, not into the Mill River. The floor of the building is concrete slab, and the setup inside the building meets all federal and local standards for safety. Towed vehicles that are leaking fluids will be taken into the building so that fluids will not travel into the other drains, which eventually drain into the Mill River.

Ms. Ashby asked about the size of the links for the fencing. Mr. Fournier stated that the smaller links are not good for the fencing that is needed in his business. The small links are rare, and only used near swimming pools.

Mr. Frank asked about plantings along the south side of the fence, on Mr. Sacco's property. Mr. MacConnell responded that they would like to ask for a review later on having plantings there, since Mr. Sacco parks his cars to be repaired there. The grasses would be hidden by the Sacco vehicles.

Ms. Ford noted that a later review of the plantings would prove to be useful.

Mr. Frank said that if the plantings interfered with Mr. Sacco's vehicles, that the fence could be moved further to the north to give room for the plants. Mr. MacConnell expressed concern about reducing the dimensions of parking lot, since it is already tightly designed. He also said that the security of towed cars is important, and that the police have to be able to see into the yard.

Mr. Frank and Ms. Ashby both said that 3-4 tubs along each side of the fence will likely not be sufficient to screen the fence adequately. For them, an 8-foot high chain link fence is a visually offensive structure and they wish to sufficiently screen it from view on all sides with plantings, including the south side.

The Board spent the rest of the public meeting discussing the findings necessary in order to approve the Special Permit and the conditions that would be attached to the permit if the Board voted approval.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits 10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because both the Potter and Sacco parcels are currently used for auto related activities – repairs, body work, rentals and storage. These uses were found to be compatible with the proposed parking lot. The other uses in the area include a grocery store, liquor store, lumber yard and a restaurant.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the use will create no air or light pollution since only one additional light will be installed which will be motion activated. The water pollution will be kept to a minimum since any vehicles leaking fluids will be stored in the Potter building with the specialized drain. Noise will be limited to tow truck noise, which will be no louder than street traffic noise.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the towed vehicles will be separated from other activity in the area by the fence. The tow trucks will use the existing curb cut and designated gate on Sunderland Road on the Potter property and customers will use the curb cut on 40 Montague Road.

10.384 and 10.389 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the site has been used for automobile related activities and has all the appropriate facilities for a parking and temporary storage area, including water/sewer and a special drain for vehicles leaking fluids. Collected wastes will be removed as dictated by federal and local regulations.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because all the parking places will be full size, 9' x 18', and the one identification sign will be approved by the Board at a later date.

10.390 – The proposal ensures protection from flood hazards as stated in Sections 3.228 and 3.229 because the site will not change for the proposed use except for the installation of a fence, filling pot holes, laying gravel on the unpaved areas, and installing some plantings for screening. The Conservation Commission will review the proposal for proper drainage as well.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because landscaping will be provided for in the conditions of this permit.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the additional lighting will be downcast and activated by a motion detector.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because no new buildings are proposed and the sites are already used for vehicles.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. Also, it does not over-crowd the site and is an appropriate place for this necessary use.

**Public Meeting – Zoning Board Decision**

Ms. Ashby made a motion to accept the site plan as submitted and to waive the requirement that the site plans be stamped by a registered licensed professional engineer or landscape architect. Mr. Frank seconded the motion and the vote was unanimous to accept the submitted site plan and waive the requirement for a stamped plan.

Mr. Frank made a motion to accept the Management Plan as amended by the Board. Ms. Ford seconded the motion and the vote was unanimous to accept the Management Plan as amended.

Ms. Ashby made a motion to accept the applicant's submitted findings of Section 10.38 as amended by the Board and to accept the conditions of the permit as crafted. Mr. Frank seconded the motion and the vote was unanimous to accept the submitted findings of Section 10.38 as amended and to accept the conditions of the permit as crafted.

Ms. Ashby made a motion to APPROVE the proposal to operate a commercial parking lot under Section 3.3840 of the Zoning Bylaw, for the temporary short-term storage of automobiles towed by the applicant. Mr. Frank seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit to operate a commercial parking lot under Section 3.3840 of the Zoning Bylaw for the temporary short-term storage of vehicles which have been towed by the applicant on the premises at 24 and 40 Montague Road, (Map 5A, Parcel 39 and 38, B-VC Zoning District), as requested in the application filed by Frank Fournier, with conditions.

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BARBARA FORD

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RUSSELL FRANK

\_\_\_\_\_  
JANE ASHBY

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2007 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2007.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2007  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to operate a commercial parking lot under Section 3.3840 of the Zoning Bylaw for the temporary short-term storage of vehicles which have been towed by the applicant on the premises at 24 and 40 Montague Road, (Map 5A/Parcel 39 and 38, B-VC Zoning District), as requested in the application filed by Frank Fournier, subject to the following conditions:

1. The parking area and office shall be as shown on the site plan approved by the Board at the public meeting November 14, 2007 and on file in the Zoning Board office, Planning Department. The site plan includes the 10 foot setback from the property boundary, sidewalks, landscaping, paved and trap rock areas, storm water catch basins, and lighting.
2. The type of lighting and fencing shall be as approved by the Board at the public meeting on November 14, 2007. Fencing shall be no taller than 8 feet.
3. If a possible second access gate into the parking area from Montague Road is needed, the applicant shall submit the request with appropriate plans and details to the Board for review and approval at a public meeting.
4. The chain link fence shall be located at least 10 feet from the property lines along Montague and Sunderland Roads, and 30 inches from the sidewalks along Montague and Sunderland Roads. A stamped survey plan prepared by a registered land surveyor showing the property boundaries shall be submitted to the Building Commissioner prior to issuance of a Building Permit.
5. A substantial amount of the entire exterior of the parking lot fence shall be screened by grasses 6 feet to 10 feet tall in tubs, or similar landscape plants in planters.
6. The plantings shall be installed in the spring of 2008 and will be reviewed by the Board at a public meeting in September, 2008.
7. All plantings shall be maintained in perpetuity.
8. All signs shall be approved by the Board at a public meeting prior to installation.
9. Operations on the site shall be conducted as described in the Management Plan as amended and approved by the Board at a public meeting on November 14, 2007.
10. Copies of the leases from both property owners, Mr. Sacco and Mr. Potter, shall be submitted to the Board to be filed with this permit in the Zoning Board office, Planning Department, prior to issuance of an occupancy permit.
11. One additional pole with two lights located by Mr. Potter's smaller building shall have downcast lighting activated by motion detectors, and shall be no higher than the roof peak.
12. Storm water catch basins on both the Sacco and Potter properties shall be inspected by the Conservation Commission prior to issuance of a certificate of occupancy. If needed, storm water treatment mechanisms acceptable to the Conservation Commission and the Town Engineer shall be installed in the catch basins.
13. All vehicles towed to the premises shall be checked immediately for leakage of fluids. Vehicles showing signs of leakage or damaged fluid systems shall be taken immediately into the enclosed building for drainage of fluids. Drainage of fluids shall take place only within the building.

14. Disposal of collected fluids shall conform to the Department of Environmental Protection requirements.
15. Prior to issuance of a Building Permit, the applicant shall file a Request for Determination with the Conservation Commission.
16. Vehicles shall be removed from the site within two weeks of arriving at the parking area.
17. The applicant is responsible for maintaining both sides of the fence free from litter at all times.
18. This permit shall be reviewed by the Board at a public meeting within two years of issuance and shall expire upon change of ownership of the business.

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BARBARA FORD, Chair  
Amherst Zoning Board of Appeals

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DATE